

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

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**IN RE:**

**DEREK EVINS DENMAN and  
MARNIE DANELL DENMAN,**

**Case No. 14-25701-gwe  
Chapter 13**

**Debtors.**

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**DR. MICHAEL RACK'S EMERGENCY MOTION TO LIFT AUTOMATIC STAY  
PURUSANT TO 11 U.S.C. § 362(d)**

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Dr. Michael Rack, a party in interest, moves the Court for relief from the automatic stay pursuant to 11 U.S.C. § 362(d) to permit Dr. Rack to exercise an option to purchase the membership interest of the Debtor, Derek Evins Denman, in Opus Medical Management, LLC pursuant to the terms of the Operating Agreement between the Debtor and the other members of Opus Medical Management, LLC and in support of his Motion, would respectfully show the Court as follows:

1. Derek Denman filed his voluntary Chapter 13 petition on June 3, 2014.
2. The Debtor's Schedule B lists a 70% membership interest in Opus Medical Management, LLC ("Opus") with a value of \$0.
3. Movant is a 25% member of Opus and is an employee and medical director of Sleep Diagnostics, LLC and Tupelo Sleep Diagnostics, LLC, both wholly owned subsidiaries of Opus.

4. Opus is a Tennessee limited liability company with its principal place of business in Shelby County, Tennessee. Opus provides management services to the following wholly owned subsidiary limited liability companies:

(a) O2 Medical, LLC (“O2”), a medical equipment company which provides equipment to other subsidiaries of Opus;

(b) Sleep Diagnostics, LLC, a Tennessee limited liability company, d/b/a Reggie White Sleep Disorder Center-DeSoto, LLC (“Sleep Diagnostics”), which operates a sleep disorder clinic in Southaven, Mississippi;

(c) Reggie White Cardio-Pulmonary Rehabilitation Center, LLC, a Tennessee limited liability company (“Reggie White Cardio”), which operates a rehabilitation and physical therapy facility in Memphis, Tennessee; and,

(d) Tupelo Sleep Diagnostics, LLC, d/b/a Reggie White Sleep Disorder Center-Tupelo, LLC, a Tennessee limited liability company (“Tupelo Sleep Diagnostics”), which operates a sleep disorder clinic in Tupelo, Mississippi.

5. O2 is presently a Chapter 11 debtor in Case No. 14-22962 pending in the United States Bankruptcy Court for the Western District of Tennessee.

6. Opus is presently a Chapter 11 debtor in Case No. 14-22960 pending in the United States Bankruptcy Court for the Western District of Tennessee.

7. Reggie White Cardio is presently a Chapter 11 debtor in Case No. 14-22961 pending in the United States Bankruptcy Court for the Western District of Tennessee.

8. Sleep Diagnostics, LLC is presently a Chapter 11 debtor in Case No. 14-23000 pending in the United States Bankruptcy Court for the Western District of Tennessee.

9. The Debtor, Derek Denman, is the chief executive officer of Opus and acts as the chief executive officer of each of the operating subsidiaries of Opus.

10. The United States Trustee has presently filed motions to dismiss or convert Chapter 11 cases of Opus, O2, Reggie White Cardio and Sleep Diagnostics, alleging, *inter alia*, acts of gross mismanagement which have occurred while Derek Denman has served as the chief executive officer of Opus.

11. Pursuant to the terms of Section 13.4 (a) of the Operating Agreement of Opus, an option to purchase is granted to each member to purchase the stock of another member who files for bankruptcy relief. Attached as Exhibit “1” hereto is a true and correct copy of the Operating Agreement of Opus.

12. Pursuant to the terms of the Operating Agreement, a member who desires to exercise the option to purchase must provide the “selling” member of the fair market value of the selling member’s interest within 30 days from the date the selling member files bankruptcy.

13. In light of the fact that the Debtor has valued his interest in Opus Medical Management, LLC at \$0 and each of the subsidiary entities of Opus, except Tupelo Sleep, are in bankruptcy, it appears that the fair market value of Opus Medical Management, LLC is \$0. Movant appraises the Debtor’s interest of Opus Medical Management, LLC to be valued at \$10,000.00. Therefore, pursuant to the requirements of Section 13.4(b), Movant hereby provides notice to the Debtor and the Chapter 13 Trustee that the fair market value of the Debtor’s interest is \$10,000.00.

14. Pursuant to the terms of the Operating Agreement, a non-bankrupt member seeking to exercise the option to purchase must do so within 60 days of the date that the selling member files bankruptcy. Given that the Debtor filed his bankruptcy petition on June 3, 2014, the 60 days would expire on August 2, 2014.

15. 11 U.S.C. § 362(a)(3) stays any act to obtain possession of the property of the estate or property from the estate or exercise control of the property of the estate.

16. The Debtor lists the value of his membership interest in Opus as \$0. Accordingly, such property is not necessary to the Debtor’s Chapter 13 plan. Additionally, The Debtor’s interest is subject to a federal tax lien in favor of the Internal Revenue Service in the approximate

amount of \$57,000.00. A true and correct copy of the IRS's notice of federal tax lien is attached hereto as Exhibit 2.

17. Cause exists for granting relief from the automatic stay to permit Dr. Michael Rack to exercise the purchase option granted to him pursuant to the terms of the Opus Operating Agreement. Due to time constraints, the Operating Agreement, emergency relief from the automatic stay is warranted.

WHEREFORE, Dr. Michael Rack prays that the Court grant an emergency hearing and that the Court enter an order terminating the automatic stay to permit Dr. Michael Rack to exercise his purchase option pursuant to the Opus Operating Agreement and that the Court grant him such other relief to which he may be entitled.

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Attorneys for Dr. Michael Rack

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that the above and foregoing was mailed on July 2, 2014 using the CM/ECF system with the above-captioned court, with notice of case activity to be generated and sent electronically by the clerk of said court and served on those parties not receiving electronic notice, by U.S. mail, first class, postage pre-paid:

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/s/ Michael P. Coury  
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